

ADOPTION NOTIFICATION REQUIREMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Robles

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies Title 26, Chapter 2, Utah Vital Statistics Act, and Title 78B, Chapter 6, Particular Proceedings.

Highlighted Provisions:

This bill:

- requires the state registrar of the Office of Vital Records and Statistics to report to the 2013 Health and Human Services Interim Committee about the possibility of creating a national putative father registry;
- modifies the definition of a "qualifying circumstance"; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-3, as last amended by Laws of Utah 2000, Chapter 86

78B-6-122, as last amended by Laws of Utah 2010, Chapter 237

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-2-3** is amended to read:

26-2-3. Department duties and authority.

(1) The department shall:

(a) provide offices properly equipped for the preservation of vital records made or received under this chapter;

(b) establish a statewide vital records system for the registration, collection, preservation, amendment, and certification of vital records and other similar documents required by this chapter and activities related to them, including the tabulation, analysis, and publication of vital statistics;

(c) prescribe forms for certificates, certification, reports, and other documents and records necessary to establish and maintain a statewide system of vital records;

(d) prepare an annual compilation, analysis, and publication of statistics derived from vital records; and

(e) appoint a state registrar to direct the statewide system of vital records.

(2) The department may:

(a) divide the state from time to time into registration districts; and

(b) appoint local registrars for registration districts who under the direction and supervision of the state registrar shall perform all duties required of them by this chapter and department rules.

(3) The state registrar appointed under Subsection (1)(e) shall, during the 2013 interim, report to the Health and Human Services Interim Committee on the feasibility of partnering with the public legal notice website described in Subsection 45-1-101(2)(b) to create a national putative father registry.

Section 2. Section **78B-6-122** is amended to read:

78B-6-122. Qualifying circumstance.

(1) (a) For purposes of this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child and ending at the time the mother executed a consent to adoption or relinquishment of the child for adoption:

(i) the child or the child's mother resided[;] on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;

- 58 (ii) the mother intended to give birth to the child in the state;
- 59 (iii) the child was born in the state; or
- 60 (iv) the mother intended to execute a consent to adoption or relinquishment of the child
- 61 for adoption:
- 62 (A) in the state; or
- 63 (B) under the laws of the state.
- 64 (b) For purposes of Subsection (1)(c)(i)(C) only, when determining whether an
- 65 unmarried biological father has demonstrated a full commitment to his parental
- 66 responsibilities, a court shall consider the totality of the circumstances, including, if applicable:
- 67 (i) efforts he has taken to discover the location of the child or the child's mother;
- 68 (ii) whether he has expressed or demonstrated an interest in taking responsibility for
- 69 the child;
- 70 (iii) whether, and to what extent, he has developed, or attempted to develop, a
- 71 relationship with the child;
- 72 (iv) whether he offered to provide and, if the offer was accepted, did provide, financial
- 73 support for the child or the child's mother;
- 74 (v) whether, and to what extent, he has communicated, or attempted to communicate,
- 75 with the child or the child's mother;
- 76 (vi) whether he has filed legal proceedings to establish his paternity of, and take
- 77 responsibility for, the child;
- 78 (vii) whether he has filed a notice with a public official or agency relating to:
- 79 (A) his paternity of the child; or
- 80 (B) legal proceedings to establish his paternity of the child; or
- 81 (viii) other evidence that demonstrates that he has demonstrated a full commitment to
- 82 his parental responsibilities.
- 83 (c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried
- 84 biological father is required with respect to an adoptee who is under the age of 18 if:
- 85 (i) (A) the unmarried biological father did not know, and through the exercise of

reasonable diligence could not have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;

(B) before the mother executed a consent to adoption or relinquishment of the child for adoption, the unmarried biological father fully complied with the requirements to establish parental rights in the child, and to preserve the right to notice of a proceeding in connection with the adoption of the child, imposed by:

(I) the last state where the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that the mother resided in before the mother executed the consent to adoption or relinquishment of the child for adoption; or

(II) the state where the child was conceived; and

(C) the unmarried biological father has demonstrated, based on the totality of the circumstances, a full commitment to his parental responsibilities, as described in Subsection (1)(b); or

(ii) (A) the unmarried biological father knew, or through the exercise of reasonable diligence should have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed; and

(B) the unmarried biological father complied with the requirements of Section 78B-6-121 before the later of:

(I) 20 days after the day that the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that a qualifying circumstance existed; or

(II) the time that the mother executed a consent to adoption or relinquishment of the child for adoption.

(2) An unmarried biological father who does not fully and strictly comply with the requirements of Section 78B-6-121 and this section is considered to have waived and surrendered any right in relation to the child, including the right to:

(a) notice of any judicial proceeding in connection with the adoption of the child; and

(b) consent, or refuse to consent, to the adoption of the child.